

SOL:DZW:WS  
(07)

UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF NEW JERSEY

-----  
ELAINE L. CHAO, Secretary of Labor,  
United States Department of Labor,

Plaintiff,

v.

PAN CITY CORP., A Corporation;  
IN SUN CHUNG Individually, and as Owner;  
PAN KWON KIM Individually, and as Owner,

Defendants.  
-----

:  
:  
: Civil Action

:  
: File No. 07-CV-05948-SDW-MCA

CONSENT JUDGMENT

Plaintiff, the Secretary, has filed her Complaint and defendants PAN CITY CORP., IN SUN CHUNG, and PAN KWON KIM have appeared by Counsel, and an agreement was reached by all the parties to resolve all the issues in this action. Defendants acknowledge their responsibilities pursuant to this agreement, and acknowledge that they will be subject to sanctions in contempt of this Court if they fail to comply with the provisions of this Judgment. Defendants, without admitting or denying the allegations of the Complaint, consent to the entry of this Judgment, and it is therefore upon motion of the attorneys for the Secretary and for good cause shown:

I. ORDERED that defendants, their officers, employees, agents, and all persons acting or claiming to act in the defendants' behalf and interest be, and they hereby are, permanently enjoined and restrained from violating the provisions of sections 6, 7, 11(c),

15(a)(2), 15(a)(3), and 15(a)(5) of the Fair Labor Standards Act of 1938, as amended, (29 U.S.C. Section 201 et seq.), (the Act), in any manner, specifically including:

(1) Defendants shall not, contrary to Section 6 of the Act, pay to any of their employees who in any workweek are engaged in commerce or in the production of goods for commerce, or employed in an enterprise engaged in commerce or in the production of goods for commerce, within the meaning of the Act, wages at rates less than those which are now, or which in the future may become, applicable under Section 6 of the Act.

(2) Defendants shall pay employees at time and one-half their regular hourly rates for all hours worked over 40 per week, and shall not, contrary to Section 7 of the Act, employ any of their employees in any workweek for workweeks longer than the hours now, or which in the future become, applicable under Sections 7 and 15(a)(2) of the Act, unless the employee receives compensation in compliance with the Act.

(3) Defendants shall make, keep, and preserve accurate and complete records of their employees and of the wages, hours, and other conditions and practices of employment maintained by them as prescribed by the Regulations issued pursuant to Section 11(c) of the Act and found at 29 CFR Part 516.

(4) Defendants shall not discharge or take any retaliatory action against any employee because the employee engages in any of the following activities:

a. Discloses, or threatens to disclose, to a supervisor or to a public agency, any activity, policy or practice of the employer or another employer, with whom there is a business relationship, that the employee reasonably believes is in violation of the Act, or a rule or regulation promulgated pursuant to the Act;

b. Provides information to, or testifies before, any public agency or entity conducting an investigation, hearing or inquiry into any alleged violation of the Act, or a rule or regulation promulgated pursuant to the Act, by the employer or another employer with whom there is a business relationship;

c. Objects to, or refuses to participate in any activity, policy or practice which the employee reasonably believes is in violation of the Act, or a rule or regulation promulgated pursuant to the Act.

II. ORDERED that the defendants are enjoined and restrained from withholding the payment of \$407.16 in overtime compensation due their employees listed in exhibit A. Payment of that sum shall be made in one (1) installment to be paid by December 14, 2007. Defendants shall pay the installment by delivering a certified check or bank check or money order to the U.S. Department of Labor, Wage and Hour Division, 200 Sheffield Street., Suite 102, Mountainside New Jersey 07092. The Secretary shall distribute the defendants' payments to the employees and former employees, or to their estates, as set forth in Exhibit A.

Defendants shall provide to plaintiff the social security number and last known address of each employee or former employee listed in Exhibit A of this Judgment.

Any sums not distributed to the named employees or former employees, or to their personal representatives because of inability to locate the proper persons or because of such persons' refusal to accept such sums, shall be deposited with the Clerk of this

Court who shall deposit such money with the Treasurer of the United States pursuant to 28 U.S.C. 2041 and 2042.

III. ORDERED that neither defendants nor anyone on their behalf shall directly or indirectly solicit or accept the return or refusal of any sums paid under this Judgment.

IV. ORDERED that the defendant shall pay a Fair Labor Standards Civil Money Penalty of \$1,683.00. Payment of that sum shall be made by delivering a certified check or bank check or money order by December 14, 2007 to the United States Department of Labor – Northeast Region, payable to the order of “Wage and Hour-Labor” at:

The Curtis Center, Suite 850 West  
170 South Independence Mall West  
Philadelphia, PA 19106-3317

V. ORDERED that the defendants shall orally advise all their employees in English and their native language of the employees’ rights under the Fair Labor Standards Act, and the terms of this Judgment, including the payment of overtime and the rights of employees to engage in activity protected by the Act without fear of retaliation. This oral advice to employees shall take place under the supervision and in the presence of representatives of the Wage Hour Division of the U.S. Department of Labor within 30 days of the entry of Judgment on a workday.

VI. ORDERED that defendants shall place posters provided by the Wage and Hour Division with information about the FLSA where employees may view them.

VII. ORDERED that neither the commencement of this action nor the provisions of this Consent Judgment shall in any way affect, determine, or prejudice any and all legal rights of any employees or former employees of defendants not listed in Exhibit A to file any action against defendants under Section 16(b) of the Act, or likewise for any

current or former employee listed in Exhibits A to file any action against defendants under Section 16(b) of the Act for any violations alleged to have occurred after June 30, 2007.

VIII. ORDERED that each party will bear its own fees and other expenses incurred by such party in connection with any stage of this proceeding.

SO ORDERED:

DATED:

Newark, New Jersey

  
HONORABLE SUSAN D. WIGENTON  
UNITED STATES DISTRICT JUDGE

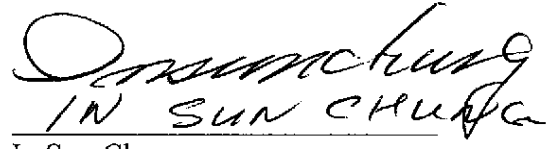
Defendants have appeared by counsel, and hereby consent to the entry of this Judgment.

CORP.  
SEAL

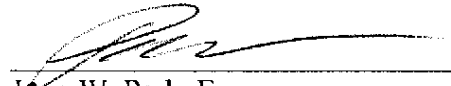
PAN CITY CORP.

By:

  
President

  
In Sun Chung

  
Pan Kwon Kim

  
Jong W. Park, Esq.  
Attorney for Defendants

RESOLVED, that the corporation, PAN CITY CORP., hereby ratifies and confirms the offer made to ELAINE L. CHAO, Secretary of Labor, with respect to the alleged violations of the Fair Labor Standards Act of 1938, as amended, and that the corporation consents to the entry of this Judgment against it to be entered in an action which has been filed by the Secretary of Labor against the corporation. The officers of the corporation are authorized to do and perform all acts and things necessary to effectuate the provisions of said Judgment and any or all stipulations, amendments and changes therein.

The undersigned, IN SUN CHUNG, secretary of the aforesaid corporation hereby certifies that the foregoing is a true copy of a resolution adopted by the Board of Directors at a meeting of said Board on Nov. 29, 2007. The undersigned further certifies that IN SUN CHUNG whose signature appears below is an officer of the corporation who has duly been authorized by resolution to execute the consent to the entry of this Judgment on behalf of the corporation.

  
SECRETARY

CORP.  
SEAL

---

STATE OF NEW JERSEY )

:SS:

COUNTY OF BERGEN )

On the 29th day of November, 2007 before me personally appeared IN SUN CHUNG to me known and known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

  
\_\_\_\_\_  
NOTARY PUBLIC

**Jong Won Park**  
Attorney at Law of New Jersey

STATE OF NEW JERSEY )

:SS:

COUNTY OF BERGEN )

On the 29th day of November, 2007 before me personally appeared PAN KWON KIM to me known and known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

  
\_\_\_\_\_  
NOTARY PUBLIC

**Jong Won Park**  
Attorney at Law of New Jersey

## **Exhibit A**



## Wage and Hour Division



20-4052947

Page 1